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LAW GROUP, P.C.**

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April 4, 2013

Benjamin M Zdeda, Assistant Planner  
Zoning Administration, City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660  
[bzdeda@newportbeachca.gov](mailto:bzdeda@newportbeachca.gov)Tony Petros, City Council Member  
2<sup>nd</sup> District  
3300 Newport Blvd  
Newport Beach, CA 92663  
[tpetros@newportbeachca.gov](mailto:tpetros@newportbeachca.gov)

**Re: Project File No.: PA2013-034**  
**Activity No.: UP2013-005**  
**Location: 211 62<sup>nd</sup> Street, Newport Beach, CA**  
**Applicant: Brian McReynolds**

**Proposed outdoor eating area to established eatery Eat Chow, by Mr. Brian McReynolds**

Dear Mr. Zdeda &amp; Mr. Petros:

I write in connection with the above-referenced planning application of Mr. McReynolds. I have examined the proposed amendment and I know the site well. On behalf of a local business that received notice, I wish to object strongly to the amendment to permit the outdoor dining to this establishment set forth before the planning commission. I have reviewed the Zoning Administrator Staff Report, Draft Resolution, Draft of the Zoning Administrator Resolution No. ZA2013-draft and all attachments, Zoning Administration Action Letter dated December 2, 2010 and September 27, 2010 letter from Brian McReynolds and Eric Doran project description and justification for director's use permit as well as the January 14, 2013 letter of Mr. McReynolds requesting three tables outdoors. I note from the outset that the paperwork seems to already make the proposed hearing nothing more than a rubber stamp and that the planning division seemingly takes a position that is not neutral as it does not reference the affects upon the neighborhood other than "facts in support of finding" and does not look at the potential problems with the proposal.

Newport Beach is a long established city where development proposals should be considered very carefully. The proposal to add outdoor dining until 11:00 pm as noted in an area that is predominantly residential could lead to loitering, noise to the local residents, traffic/parking issues and transient/vagrant population increases. The subject establishment is only provided 4 parking spaces in an area that is already well known to be difficult to locate parking spaces. The protection of Newport Beach's visual, historic and archaeological qualities is also supported by its residents as well as the planning commission and city council's decisions that note inappropriately planned, or amendments for proposals that fail to take opportunities to improve the character of an area, should not be accepted. The proposed amendment of Mr.

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McReynolds would not improve the character of the area, but would add to the noise, traffic, vagrancy of the area which Newport Beach seeks to avoid, in addition to possibly becoming a safety hazard to traffic in the area. The location is a restaurant and not a coffee shop as referenced in some of the notes.

The function of the Planning Division is to promote and enhance the well-being of residents, visitors, property owners, and businesses of the City of Newport Beach. The division accomplishes its mission through programs that encourage high quality development as well as maintenance and revitalization of existing neighborhoods. The site subject to this proposal is within the local development plan, on which the public will be consulted on April 11, 2013 at 3:30 pm at the public meeting. It is anticipated that the proposed amendment goes against the development plan for Newport Beach as for the reasons set forth above. It does not promote or enhance residents, property owners and businesses in the area. In fact, it is anticipated that the already overcrowded parking in the area and streets may become more congested. It may cause issues as patrons for Eat Chow already park in the parking lot owned and posted "Parking for Spaghetti Bender Patrons Only" as evidenced by photos obtained on a random drive by inspection. I do realize that the owner of the establishment is a tenant to the owner of the Spaghetti Bender, but in essence you are permitting two restaurants to operate without adequate parking by the proposal even if they share the adjoining parking lot. Moreover, the restaurant already is adjacent to a residential area on 62<sup>nd</sup> Street at Newport Shores Drive. Such outdoor dining and drinking of beer & wine as sold by the proprietor to 11:00 pm as proposed would increase noise and also permit smoking that could invade the residential community at night past the Newport Beach curfew hour.

Pressure for the addition here may be limited to the proprietor, mainly for additional seating to the establishment. Mr. McReynolds was permitted to have 5-6 parking spaces for his restaurant and the amount of patrons held inside can easily exceed the parking spaces allotted. This would naturally cause invasion to the local streets and other private properties adjacent and across the street if permitted. In addition, opposition to the proposed variance is concerned about the noise that would be caused by outside dining and consumption of alcoholic beverages by patrons at late hours in an area directly adjacent to a residential area. Such areas are already available elsewhere within the city limits further south on Pacific Coast Highway but are in a predominantly industrial neighborhood. So this is not the creation of a new item or idea for the city of Newport Beach to increase tourism. But it is expansion of an idea better suited for an industrial area to be incorporated into a residential area that already has problems as noted within this objection.

The appropriate parking ratio is one space per 30-50 square feet of public space. See *Newport Beach Municipal Code* § 20.40.040 under the table 3-10 set forth under "Eating and Drinking Establishments" as well as *Newport Beach Municipal Code* § 20.40.060(A). Therefore, Eat Chow was required to have 20 parking spaces for their establishment. The City has already determined that the establishment was non-conforming under *Newport Beach Municipal Code* § 20.38.060 due to the deficient off-street parking and the proposed use will only further make matters worse. Under *Newport Beach Municipal Code* § 20.40.060 (B), conditions for approval...and a change to *any* of the conditions will require an amendment to the permit

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application.” (Ordinance 2010-21 § 1 Exhibit A. Here, the original use permit contemplated peak use hours during the morning and afternoon. But now, the shift in the times and usage has dramatically altered the peak use to evening hours, when it competes with the Spaghetti Bender over the same shortness of off-street parking.

Proprietor Brian McReynolds is already aware from his other Eat Chow restaurant located in Costa Mesa at 1802 Newport Boulevard, Costa Mesa the differences between the two restaurants he owns. The Costa Mesa restaurant already has four (4) outdoor tables for dining. But the essential differences are location and zoning. The Costa Mesa location is situated in an industrialized area of Costa Mesa. It is not literally 20 feet from a residence as is the case with the proposal at issue here. There is no danger that the noise increase would be noticeable especially with all the traffic that passes in the area of the Costa Mesa location. There, his establishment is located within 100 feet of the landmark Triangle Square Mall and shopping center where such outdoor dining and incidental noise would affect no one. The proposal here, is in a quiet well established residential area as opposed to just off the busiest street in the immediate area where the 55 freeway ends. Parking is also not an issue in Costa Mesa where there is a city public lot located across the street from that establishment.

The proposed variance of the area is particularly ill-considered here. It is a residential area of established homes used by many local residents and tourists walking, jogging, biking, beach access, walking pets, and the outdoor table here would both diminish the aesthetic appearance of the area and cause sidewalk traffic a detour. The only potential location for the outdoor table is directly next to the public sidewalk at the entrance to the parking lot for the Eat Chow establishment. It would not fit any other location. The style is out of keeping with the area’s historic character – no other dwelling in the area has an outdoor table, for instance. Additionally, the location of the outdoor table potentially creates a problem if a vehicle entering the parking lot misses the entrance way only slightly. Patrons at the outdoor table could then become victims of a *vehicle v. pedestrian* accident in the already congested area.

What are even more egregious here are the previous violations to the permit by the owner that have occurred over the years. Eat Chow has already been cited for having outdoor dining without a permit before the application. Here the experience proprietor already was aware of the process for obtaining a permit for outdoor dining. He dealt with that very issue at the other location to obtain the outdoor dining permit in Costa Mesa. Yet he consciously did provide outdoor seating here without a permit and was cited. Moreover, in the September 2010 application for permit, the applicant represented he would have his employees park their vehicles away from the restaurant to reduce the impact on the adjacent local residents. This has never occurred with the observation being the employees park as close to the restaurant as possible.

Original Permit Conditions 36 & 37 of the original use permits are also violated routinely by the applicant. Section 36 reads “The use of the facilities rear door for deliveries shall be prohibited.” Delivery trucks are routinely observed illegally parked on Newport Shores Drive adjacent to the rear door and observed making deliveries through the rear door in violation of condition 36. Said section also requires that the rear doors to the facility shall remain closed at all times. However, the door has been observed open too many times to recount at all hours of

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operation of the establishment. Condition 37 reads "All deliveries shall be conducted onsite through the front entrance." Instead, due to the already overcrowded conditions present, all deliveries are conducted "off-site" and are accomplished by either illegally parking behind the property and entering through the back door or parking in the parking lot of the Spaghetti Bender and entering through the front entrance. Either way, it is a violation of the express conditions and has demonstrated the disregard of the conditions for the original use permit.

Furthermore, there is no need for this kind of open air seating in the city of Newport Beach. Many of the restaurants and bars in the more industrialized portions of the city limits already provide outdoor dining and drinking venues such as is being proposed. They are however in better suited and adapted areas that do not encounter the same problems as foreseen here next to a residential area. As an alternative to this proposal, we would support the construction of additional outdoor dining in areas that are more industrialized and not going to increase the noise, traffic and further cause parking issues already prevalent in the city limits.

We understand that the local businesses in the immediate area may share some of these concerns voiced herein. More importantly, the local area residents are also in agreement that some issues set forth herein are unknown and may cause an effect upon their quiet lifestyle based upon discussions this writer has had with area residents during the day there.

Given the two locations of the Eat Chow establishment, Mr. McReynolds already has outdoor seating at his location in Costa Mesa in an area zoned for commercial businesses. That location is less than 3 miles away and only an 8 minute drive. If his patrons want to dine outdoors, they can take a short drive (less than 10 minutes) to get to the location where it is properly designed, zoned and situated to eat and drink outdoors as it will not cause the potential issues here in Newport Beach as discussed herein.

If this application is to be decided by those present at the local meeting set on April 11, 2013 at 3:30 pm, I would like reserve the opportunity to speak at the meeting of the committee at which this application is expected to be decided.

Very truly yours,

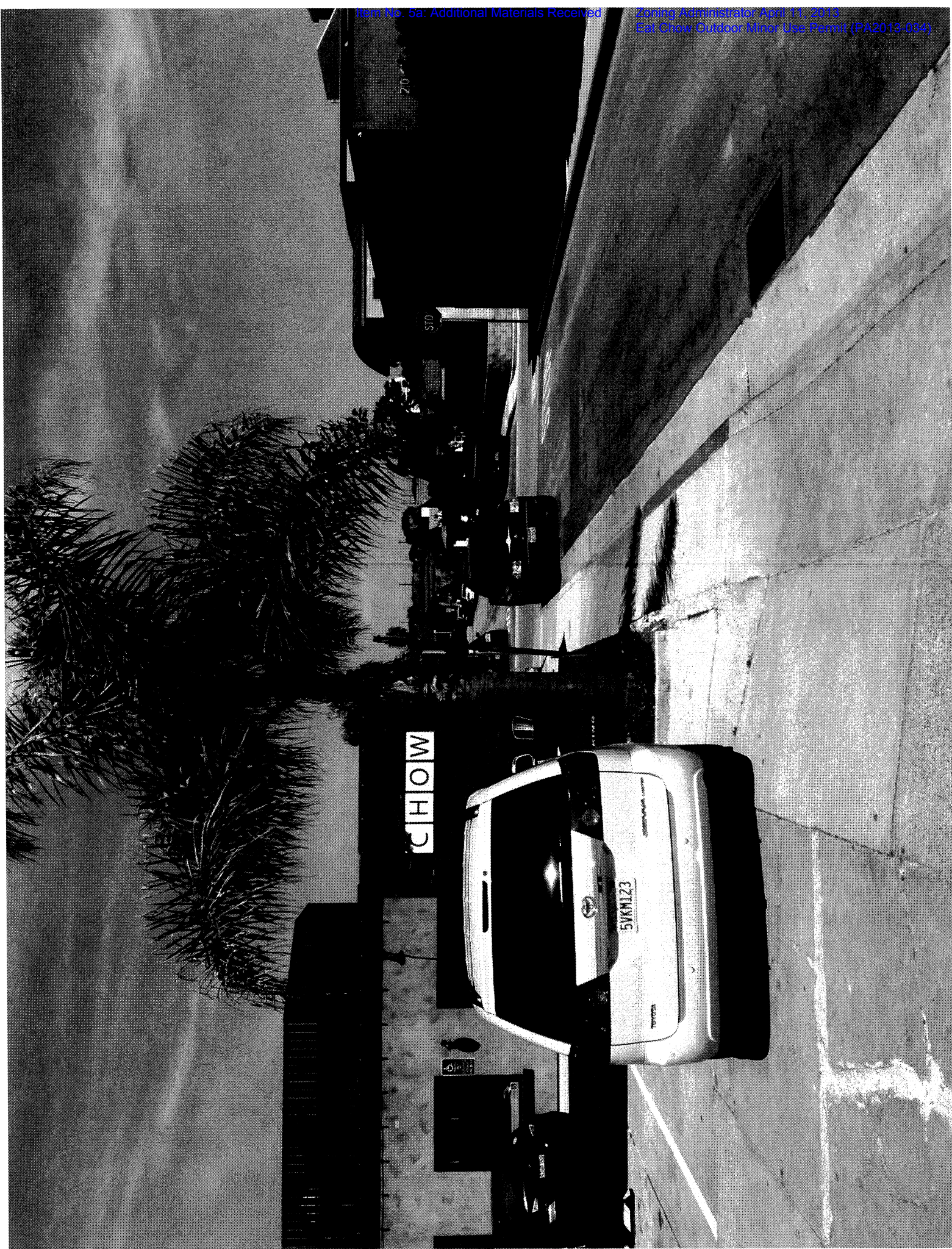
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Michael V. Peros

MVP/dli











**SOUP & SALAD**

Hot and Cold Soups, Salads, and more...

**SPECIAL COMBINATIONS**

Chicken, Beef, Pork, and more...

**POLLO & CARNE**

Chicken, Beef, Pork, and more...

**SEAFOOD**

Shrimp, Fish, and more...

**Opening Hours**

**SUNDAY: 4:30pm**

**MONDAY: 5:00pm**

**TUESDAY: 5:00pm**

**WEDNESDAY: 5:00pm**

**THURSDAY: 5:00pm**

**BEVERAGES**

COFFEE (regular)	0.75	SPARKLING WATER	1.00
TEA (regular)	0.75	CAFFEINATED WATER	1.00
RED TEA	0.75	FRUIT FLAVORED	0.75
GREEN TEA	0.75	HERB	0.75



**CITY OF NEWPORT BEACH  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that on **Thursday, April 11, 2013, at 3:30 p.m.**, or soon thereafter as the matter shall be heard, a public hearing will be conducted in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. The Zoning Administrator of the City of Newport Beach will consider the following application:

**Eat Chow Outdoor Dining MUP** – An amendment to a use permit to allow four seats (50 square feet) for the addition of an outdoor dining area at an existing eating and drinking establishment approved by Use Permit No. UP2010-027 (PA2010-136). There are no late hours (after 11:00 p.m.) and no other operational changes are proposed as part of the application.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

All interested parties may appear and present testimony in regard to this application. If you challenge this project in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City, at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapter 20.64 (Appeals). The application may be continued to a specific future meeting date, and if such an action occurs additional public notice of the continuance will not be provided. Prior to the public hearing the agenda, staff report, and documents may be reviewed at the Newport Beach Public Library, Mariners Branch, at 1300 Irvine Avenue, Newport Beach, CA 92660 or at the City of Newport Beach website at [www.newportbeachca.gov/zoningadministrator](http://www.newportbeachca.gov/zoningadministrator). Individuals not able to attend the meeting may contact the Planning Division or access the City's website after the meeting to review the action on this application.

For questions regarding this public hearing item please contact Benjamin M. Zdeba, Assistant Planner, at (949) 644-3253, [bzdeba@newportbeachca.gov](mailto:bzdeba@newportbeachca.gov).

**Project File No.:** PA2013-034

**Activity No.:** UP2013-005

**Zone:** CV (Commercial Visitor-Serving)

**General Plan:** CV (Visitor-Serving Commercial)

**Location:** 211 62nd Street

**Applicant:** Brian McReynolds



A. **Parking Required to Be On-Site.** Parking shall be located on the same lot or development site as the uses served, except for the following:

1. **Townhouses and Multi-Tenant Uses.** Where parking is provided on another lot within the same development site, the parking shall be located within two hundred (200) feet of the units they are intended to serve.
2. **Off-Site Parking Agreement.** Parking may be located off-site with the approval of an off-site parking agreement in compliance with Section 20.40.100(C) (Parking Agreement).

B. **Permanent Availability Required.** Each parking and loading space shall be permanently available and maintained for parking purposes for the use it is intended to serve. The Director may authorize the temporary use of parking or loading spaces for other than parking or loading in conjunction with a seasonal or intermittent use allowed in compliance with Section 20.52.040 (Limited Term Permits).

C. **Maintenance.** Parking spaces, driveways, maneuvering aisles, turnaround areas, and landscaping areas shall be kept free of dust, graffiti, and litter. Striping, paving, walls, light standards, and all other facilities shall be permanently maintained in good condition.

D. **Vehicles for Sale.** Vehicles, trailers, or other personal property shall not be parked upon a private street, parking lot, or private property for the primary purpose of displaying the vehicle, trailer, or other personal property for sale, hire, or rental, unless the property is appropriately zoned, and the vendor is licensed to transact a vehicle sales business at that location.

E. **Calculation of Spaces Required.**

1. **Fractional Spaces.** Fractional parking space requirements shall be rounded up to the next whole space.
2. **Bench Seating.** Where bench seating or pews are provided, eighteen (18) linear inches of seating shall be considered to constitute a separate or individual seat.
3. **Gross Floor Area.** References to spaces per square foot are to be calculated on the basis of gross floor area unless otherwise specified.
4. **Net Public Area.** "Net public area" shall be defined as the total area accessible to the public within an eating and/or drinking establishment, excluding kitchens, restrooms, offices pertaining to the use, and storage areas.
5. **Spaces per Occupant.** References to spaces per occupant are to be calculated on the basis of maximum occupancy approved by the City of Newport Beach Fire Department.
6. **Spaces Required for Multiple Uses.** If more than one use is located on a site, the number of required off-street parking spaces shall be equal to the sum of the requirements prescribed for each use.

F. **Nonconforming Parking and Loading.** Land uses and structures that are nonconforming due solely to the lack of off-street parking or loading facilities required by this chapter shall be subject to the provisions of Section 20.38.060 (Nonconforming Parking). (Ord. 2010-21 § 1 (Exh. A)(part), 2010)

#### **20.40.040 Off-Street Parking Spaces Required.**

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Off-street parking spaces shall be provided in compliance with Table 3.10. These standards shall be considered the minimum required to preserve the public health, safety, and welfare, and more extensive parking provisions may be required by the review authority in particular circumstances. Unless otherwise noted parking requirements are calculated based on gross floor area.

**TABLE 3-10**  
**OFF-STREET PARKING REQUIREMENTS**

<b>Land Use</b>	<b>Parking Spaces Required</b>
<b>Industry, Manufacturing and Processing, Warehousing Uses</b>	
Food Processing	1 per 2,000 sq. ft.
Handicraft Industry	1 per 500 sq. ft.
<b>Industry</b>	
Small—5,000 sq. ft. or less	1 per 500 sq. ft.
Large—Over 5,000 sq. ft.	1 per 1,000 sq. ft.
Industry, Marine-Related	1 per 750 sq. ft.
Personal Storage (Mini Storage)	2 for resident manager, plus additional for office as required by minor use permit
Research and Development	1 per 500 sq. ft.
Warehousing and Storage	1 per 2,000 sq. ft., plus one per 350 sq. ft. for offices. Minimum of 10 spaces per use
Wholesaling	1 per 1,000 sq. ft.
<b>Recreation, Education, and Public Assembly Uses</b>	
Assembly/Meeting Facilities	1 per 3 seats or one per 35 sq. ft. used for assembly purposes
Commercial Recreation and Entertainment	As required by conditional use permit
Cultural Institutions	1 per 300 sq. ft.
Schools, Public and Private	As required by conditional/minor use permit
<b>Residential Uses</b>	
Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site.
Single-Unit Dwellings—Attached	2 per unit in a garage
Single-Unit Dwellings—Detached and less than 4,000 sq. ft. of habitable floor area	2 per unit in a garage
Single-Unit Dwellings—Detached and 4,000 sq. ft. or greater of floor area	3 per unit in a garage
Single-Unit Dwellings—Balboa Island	2 per unit in a garage
Multi-Unit Dwellings—3 units	2 per unit covered, plus guest parking;



Land Use	Parking Spaces Required
	1—2 units, no guest parking required
	3 units, 1 guest parking space
Multi-Unit Dwellings—4 units or more	2 per unit covered, plus 0.5 space per unit for guest parking
Two-Unit Dwellings	2 per unit; 1 in a garage and 1 covered or in a garage
Live/Work Units	2 per unit in a garage, plus 2 for guest/customer parking
Senior Housing—Market rate	1.2 per unit
Senior Housing—Affordable	1 per unit
Retail Trade Uses	
Appliances, Building Materials, Home Electronics, Furniture, Nurseries, and Similar Large Warehouse-type Retail Sales and Bulk Merchandise Facilities	1st 10,000 sq. ft.—1 space per 300 sq. ft. Over 10,000 sq. ft.—1 space per 500 sq. ft. Plus 1 per 1,000 sq. ft. of outdoor merchandise areas
Food and Beverage Sales	1 per 200 sq. ft.
Marine Rentals and Sales	
Boat Rentals and Sales	1 per 1,000 sq. ft. of lot area, plus 1 per 350 sq. ft. of office area
Marine Retail Sales	1 per 250 sq. ft.
Retail Sales	1 per 250 sq. ft.
Shopping Centers	1 per 200 sq. ft. See Section <u>20.40.050</u>
Service Uses—Business, Financial, Medical, and Professional	
Convalescent Facilities	1 per 3 beds or as required by conditional use permit
Emergency Health Facilities	1 per 200 sq. ft.
Financial Institutions and Related Services	1 per 250 sq. ft.
Hospitals	1 per bed; plus 1 per resident doctor and 1 per employee.
Offices*—Business, Corporate, General, Governmental First 50,000 sq. ft. Next 75,000 sq. ft. Floor area above 125,001 sq. ft. * Not more than 20% medical office uses.	1 per 250 sq. ft. net floor area 1 per 300 sq. ft. net floor area 1 per 350 sq. ft. net floor area
Offices—Medical and Dental Offices	1 per 200 sq. ft.
Outpatient Surgery Facility	1 per 250 sq. ft.

Land Use	Parking Spaces Required
<b>Service Uses—General</b>	
Adult-Oriented Businesses	1 per 1.5 occupants or as required by conditional use permit
Ambulance Services	1 per 500 sq. ft.; plus 2 storage spaces.
<b>Animal Sales and Services</b>	
Animal Boarding/Kennels	1 per 400 sq. ft.
Animal Grooming	1 per 400 sq. ft.
Animal Hospitals/Clinics	1 per 400 sq. ft.
Animal Retail Sales	1 per 250 sq. ft.
Artists' Studios	1 per 1,000 sq. ft.
Catering Services	1 per 400 sq. ft.
<b>Care Uses</b>	
Adult Day Care—Small (6 or fewer)	Spaces required for dwelling unit only
Adult Day Care—Large (7 or more)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit)
Child Day Care—Small (6 or fewer)	Spaces required for dwelling unit only
Child Day Care—Large (9 to 14)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit)
Day Care—General	1 per 7 occupants based on maximum occupancy allowed per license
Residential Care—General (7 to 14)	1 per 3 beds
<b>Eating and Drinking Establishments</b>	
Accessory (open to public)	1 per each 3 seats or 1 per each 75 sq. ft. of net public area, whichever is greater
Bars, Lounges, and Nightclubs	1 per each 4 persons based on allowed occupancy load or as required by conditional use permit
Food Service with/without alcohol, with/without late hours	1 per 30—50 sq. ft. of net public area, including outdoor dining areas, but excluding the first 25% or 1,000 sq. ft. of outdoor dining area, whichever is less. See Section <u>20.40.060</u>
Food Service—Fast food	1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas
Take-Out Service—Limited	1 per 250 sq. ft.



Land Use	Parking Spaces Required
Emergency Shelter	1 per 4 beds plus 1 per staff; and if shelter is designed with designated family units then 0.5 parking space per bedroom designated for family units
Funeral Homes and Mortuaries	1 per 35 sq. ft. of assembly area
<b>Health/Fitness Facilities</b>	
Small—2,000 sq. ft. or less	1 per 250 sq. ft.
Large—Over 2,000 sq. ft.	1 per 200 sq. ft.
Laboratories (medical, dental, and similar)	1 per 500 sq. ft.
Maintenance and Repair Services	1 per 500 sq. ft.
<b>Marine Services</b>	
Boat Storage—Dry	0.33 per storage space or as required by conditional use permit
Boat Yards	As required by conditional use permit
Dry Docks	2 per dry dock
Entertainment and Excursion Services	1 per each 3 passengers and crew members
Marine Service Stations	As required by conditional use permit
Sport Fishing Charters	1 per each 2 passengers and crew members
Water Transportation Services—Office	1 per 100 sq. ft., minimum 2 spaces
<b>Personal Services</b>	
Massage Establishments	1 per 200 sq. ft. or as required by conditional use permit
Nail Salons	1 per 80 sq. ft.
Personal Services, General	1 per 250 sq. ft.
Studio (dance, music, and similar)	1 per 250 sq. ft.
Postal Services	1 per 250 sq. ft.
Printing and Duplicating Services	1 per 250 sq. ft.
<b>Recycling Facilities</b>	
Collection Facility—Large	4 spaces minimum, but more may be required by the review authority
Collection Facility—Small	As required by the review authority
<b>Visitor Accommodations</b>	
Bed and Breakfast Inns	1 per guest room, plus 2 spaces
Hotels and accessory uses	As required by conditional use permit

Land Use	Parking Spaces Required
Motels	1 per guest room or unit
Recreational Vehicle Parks	As required by conditional use permit
Time Shares	As required by conditional use permit
Transportation, Communications, and Infrastructure Uses	
Communication Facilities	1 per 500 sq. ft.
Heliports and Helistops	As required by conditional use permit
Marinas	0.75 per slip or 0.75 per 25 feet of mooring space
Vehicle Rental, Sale, and Service Uses	
Vehicle/Equipment Rentals	
Office Only	1 per 250 sq. ft.
Limited	1 per 300 sq. ft., plus 1 per rental vehicle (not including bicycles and similar vehicles)
Vehicle/Equipment Rentals and Sales	1 per 1,000 sq. ft. of lot area
Vehicles for Hire	1 per 300 sq. ft., plus 1 per each vehicle associated with the use and stored on the same site
Vehicle Sales, Office Only	1 per 250 sq. ft., plus 1 as required by DMV
Vehicle/Equipment Repair (General and Limited)	1 per 300 sq. ft. or 5 per service bay, whichever is more
Vehicle/Equipment Services	
Automobile Washing	1 per 200 sq. ft. of office or lounge area; plus queue for 5 cars per washing station
Service Station	1 per 300 sq. ft. or 5 per service bay, whichever is more; minimum of 4
Service Station with Convenience Market	1 per 200 sq. ft., in addition to 5 per service bay
Vehicle Storage	1 per 500 sq. ft.
Other Uses	
Caretaker Residence	1 per unit
Special Events	As required by Chapter <u>11.03</u>
Temporary Uses	As required by the limited term permit in compliance with Section <u>20.52.040</u>

(Ord. 2013-4 § 3, 2013; Ord. 2010-21 § 1 (Exh. A)(part), 2010)

**20.40.050 Parking Requirements for Shopping Centers.**



A. An off-street parking space requirement of one space for each two hundred (200) square feet of gross floor area may be used for shopping centers meeting the following criteria:

1. The gross floor area of the shopping center does not exceed 100,000 square feet; and
2. The gross floor area of all eating and drinking establishments does not exceed fifteen (15) percent of the gross floor area of the shopping center.

B. Individual tenants with a gross floor area of ten thousand (10,000) square feet or more shall meet the parking space requirement for the applicable use in compliance with Section 20.40.040 (Off-Street Parking Spaces Required).

C. Shopping centers with gross floor areas in excess of 100,000 square feet or with eating and drinking establishments occupying more than fifteen (15) percent of the gross floor area of the center shall use a parking requirement equal to the sum of the requirements prescribed for each use in the shopping center. (Ord. 2010-21 § 1 (Exh. A)(part), 2010)

#### **20.40.060 Parking Requirements for Food Service Uses.**

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A. Establishment of Parking Requirement. The applicable review authority shall establish the off-street parking requirement for food service uses within a range of one space for each thirty (30) to fifty (50) square feet of net public area based upon the following considerations:

1. Physical Design Characteristics.
  - a. The gross floor area of the building or tenant space;
  - b. The number of tables or seats and their arrangement;
  - c. Other areas that should logically be excluded from the determination of net public area;
  - d. The parking lot design, including the use of small car spaces, tandem and valet parking and loading areas;
  - e. Availability of guest dock space for boats; and
  - f. Extent of outdoor dining.
2. Operational Characteristics.
  - a. The amount of floor area devoted to live entertainment or dancing;
  - b. The amount of floor area devoted to the sale of alcoholic beverages;
  - c. The presence of pool tables, big screen televisions or other attractions;
  - d. The hours of operation; and
  - e. The expected turnover rate.
3. Location of the Establishment.
  - a. In relation to other uses and the waterfront;

- b. Availability of off-site parking nearby;
- c. Amount of walk-in trade; and
- d. Parking problems in the area at times of peak demand.

B. Conditions of Approval. If during the review of the application, the review authority uses any of the preceding considerations as a basis for establishing the parking requirement, the substance of the considerations shall become conditions of the permit application approval and a change to any of the conditions will require an amendment to the permit application, which may be amended to establish parking requirements within the range as noted above. (Ord. 2010-21 § 1 (Exh. A)(part), 2010)

#### **20.40.070 Development Standards for Parking Areas.**

A. Access to Parking Areas. Access to off-street parking areas shall be provided in the following manner:

1. Nonresidential and Multi-Unit. Parking areas for nonresidential and multi-unit uses:
  - a. Adequate and safe maneuvering aisles shall be provided within each parking area so that vehicles enter an abutting street or alley in a forward direction.
  - b. The Director may approve exceptions to the above requirement for parking spaces immediately adjoining a public alley, provided not more than ten (10) feet of the alley right-of-way is used to accommodate the required aisle width, and provided the spaces are set back from the alley the required minimum distances shown in Table 3-11.

**TABLE 3-11**

**PARKING SETBACK FROM ALLEY**

<b>Alley Width</b>	<b>Minimum Setback</b>
15'0" or less	5'0"
15'1" to 19'11"	3'9"
20'0" or more	2'6"

- c. The first parking space within a parking area accessed from a public street shall be set back a minimum of five feet from the property line.
  2. Access Ramps. Ramps providing vehicle access to parking areas shall not exceed a slope of fifteen (15) percent. Changes in the slope of a ramp shall not exceed eleven (11) percent and may occur at five-foot intervals. Refer to Public Works Standard 160L-B, C and 805L-B. The Director of Public Works may modify these standards to accommodate specific site conditions.
- B. Location of Parking Facilities.
1. Residential Uses. Parking facilities serving residential uses shall be located on the same site as the use the parking is intended to serve. Additional requirements are provided in Section 20.40.090 (Parking Standards for Residential Uses).